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November 9, 1993

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Office of the Secretary
1919 M Street NW
Federal Communications Commission
Washington, DC 20554

Re: In the Matter of Implementation of
Section 309(j) of the Communications
Act - Competitive Bidding
PP Docket No. 93-253

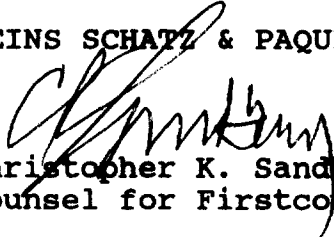
Ladies and Gentlemen:

Enclosed for filing with your office are the original and nine copies of the Comments of Firstcom, Inc., in the above-captioned rulemaking.

Thank you for your assistance. Please call with any questions.

Sincerely,

HEINS SCHATZ & PAQUIN


Christopher K. Sandberg
Counsel for Firstcom, Inc.

CKS:mmb
Enclosure
cc: Barbara Steen

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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In the Matter of

Implementation of Section 309(j)
of the Communications Act
Competitive Bidding

PP Docket No. 93-253

COMMENTS OF FIRSTCOM, INC.

Firstcom, Inc. ("Firstcom") hereby submits its Comments on the Notice of Proposed Rulemaking ("the NOPR") issued by the Federal Communications Commission ("the Commission") on October 12, 1993, in the above-captioned proceeding.

1. **Background.**

Firstcom is a woman-owned small business located in the Twin Cities metropolitan area of Minnesota. Firstcom has provided private shared tenant services to several office complexes in the Twin Cities since 1984. Firstcom has recently expanded its telecommunications services to include interstate and intrastate long-distance resale operations. Firstcom has filed its interstate resale tariff with the Commission, and is in the process of being certificated by the Minnesota Public Utilities Commission as an intrastate long-distance and local service reseller.

2. **PCS Bidding Proposals.**

In the NOPR, the Commission proposed to set aside two blocks of broadband PCS spectrum, to be reserved for bidding purposes to

"designated entities", a term of art which includes women-owned businesses. NOPR at ¶ 72; 121. The Commission sought comments on the overall scheme of spectrum set-aside, and on the specific proposal for PCS spectrum.

Firstcom generally supports the Commission's plan to use spectrum set-aside as a vehicle for implementing the Congressional directive to ensure that businesses owned by women and minorities are "given an opportunity to participate" in the provision of these new wireless technologies. A set-aside of particular spectrum for competitive bidding among those classes of businesses identified by Congress is substantially related to the Congressional goal. If businesses owned by women and minorities are required to bid against all the other likely participants in the PCS market, it is extremely unlikely that any businesses owned by women and minorities will have the chance to secure a spectrum allocation and attempt to enter the PCS marketplace.

In general, businesses owned by women and minorities will be smaller and less-well capitalized than the telephone, cable, and other media powerhouses which are positioning themselves to bid on PCS licenses. The Congressional intent to give businesses owned by women and minorities the opportunity to make bids and have a meaningful chance to win rights to PCS spectrum will be advanced by letting those businesses bid on a level playing field with their peers, and by preventing the behemoths from completely overtaking this emerging industry.

As to the specific set-aside proposal for broadband PCS, Firstcom supports the Commission's proposal to set one Block C and one Block D of spectrum aside for bidding by businesses owned by women and minorities. NOPR at ¶ 120-121. This proposal is a reasonable way of assuring that there will be participation by designated entities, and that the entire PCS marketplace will not be dominated by incumbent, large firms. However, Firstcom believes that bidding on these set-aside spectrum blocks should be limited to designated entities that have demonstrated their qualifications to offer a PCS service.

The Commission has set out a general proposal to only require a "short-form" statement of qualifications with an application to bid, reserving review of a "long-form" disclosure only for the winning bidders. NOPR at ¶ 97. Whatever advantages this two-step review process may have for the general body of bids, it is not appropriate for the PCS set-aside portion of the bidding process. The central feature of the PCS set-aside proposal is that "designated entities for which the Commission is required to ensure economic opportunity would only bid against one another for this service..." Within that plan, only qualified designated entities should be permitted to participate. The bidding for the set-aside spectrum should truly be among those businesses owned by women and minorities that would be qualified to obtain and implement a PCS service if successful in the bidding.

For the set-aside blocks, the Commission should require that all designated entities submit as part of their application

information demonstrating their qualification, by experience in the telecommunications market and financial stability, to actually put into place a PCS service if licensed. That information should be reviewed prior to any bidding being conducted on the set-aside blocks, and any ineligible applicants should be removed from the bidding process.

3. Conclusion.

The Commission's proposal for setting aside two blocks of broadband spectrum for designated entities is an appropriate method of ensuring participation by under-represented groups in the telecommunications industry, and for fostering greater diversity of ownership and service than would otherwise take place. The Commission should revise its proposal to ensure that only qualified designated entities actually participate in the bidding for the set-aside spectrum.

Dated: November 9, 1993.

Respectfully submitted,

HEINS SCHATZ & PAQUIN

By 

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